

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



ELIZABETH SEVINSKY, RYAN
BRICKMAN, MICHELLE TIRONE
COLADANGELO, and STEPHEN TIRONE,

Plaintiff,

24-CV-186 (JLS) (HKS)

v.

COUNTY OF CATTARAUGUS,

Defendant.

DECISION AND ORDER

Plaintiffs Elizabeth Sevinsky, Ryan Brickman, Michelle Tirone Coladangelo, and Stephen Tirone (collectively, “Plaintiffs”) commenced this action against Defendant County of Cattaraugus, alleging constitutional violations and state law claims. *See* Dkt. 1, 12. Defendant filed a motion to dismiss. Dkt. 13. Plaintiffs responded (Dkt. 18), and Defendant replied. Dkt. 21.

On April 8, 2025, Judge Schroeder¹ issued a Report and Recommendation (“R&R”), recommending that this Court grant Defendant’s motion to dismiss, only as to Plaintiffs’ fiduciary duty claims, and otherwise deny the motion. *See* Dkt. 25, at 16. Neither party filed objections.

¹ This Court referred the case to United States Magistrate Judge H. Kenneth Schroeder Jr. for all proceedings under 28 U.S.C. §§ 636(b)(1)(A), (B), and (C). Dkt. 14.

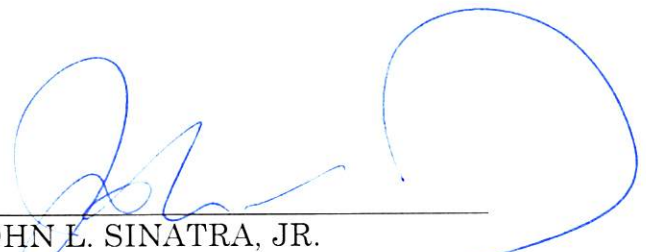
A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which a party objects. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

This Court carefully reviewed the R&R, and accepts Judge Schroeder's recommendation.

For the reasons stated above, and in the R&R, this Court GRANTS Defendant's [13] motion to dismiss, only as to the fiduciary duty claims, and DENIES the motion in all other respects, as described in the R&R. This case is referred back to Judge Schroeder for further proceedings.

SO ORDERED.

Dated: May 13, 2025
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE